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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,725	02/27/2004	Hea Young Park Choo	DE-1557	9620
1109	7590	03/21/2006	EXAMINER	
ANDERSON, KILL & OLICK, P.C. 1251 AVENUE OF THE AMERICAS NEW YORK,, NY 10020-1182			SPIVACK, PHYLLIS G	
			ART UNIT	PAPER NUMBER

1614

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,725

Applicant(s)

PARK CHOO ET AL.

Examiner

Phyllis G. Spivack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-9 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to methods for inhibiting 5-lipoxygenase and methods of treating a leukotriene-related disease, classified in various subclasses of class 514, depending on the compound of instant formula I contemplated.
- II. Claims 8 and 9, drawn to methods for preparing a compound of formula I, classified in various subclasses of classes 546 and 548, depending on the compound of instant formula I contemplated.

The inventions are distinct, each from the other, for the following reasons:

Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case 5-lipoxygenase may be inhibited by non-benzoxazole derivatives. Alternatively, the compounds that are prepared by the methods disclosed in instant claims 8 and 9 have uses unrelated to 5-lipoxygenase inhibition.

The Groups have acquired a separate status in the art by their recognized, divergent subject matter. The searches required for each Group are not co-extensive resulting in an undue burden to the Examiner. Each Group is capable of supporting a separate patent.

Restriction for examination purposes as indicated is proper.

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Further, claims 1-7 are generic to a plurality of disclosed patentably distinct species comprising a compound of instant formula I, as disclosed in the present specification. Applicants are required under 35 U.S.C. 121 to elect a single disclosed species if Group I is elected, even though this requirement is traversed.

Should Applicants traverse on the ground that the species are not patentably distinct, Applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicants are advised that to be complete, the reply to this requirement must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

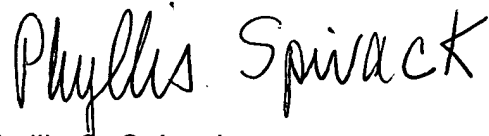
A telephone call to the attorney is not required where: 1) the restriction requirement is complex; 2) the application is being prosecuted *pro se*; or, 3) the Examiner knows from past experience that a telephone election will not be made. See MPEP 812.01.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached on 10:30 AM-7 PM.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low can be reached on 591-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Phyllis Spivack". The signature is written in a cursive, flowing style.

March 17, 2006

Phyllis G. Spivack

**PHYLLIS SPIVACK
PRIMARY EXAMINER**